

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Larry Lewis,

Plaintiff(s),

vs.

Central States Southeast & Southwest Areas  
Pension Fund, et. al.,

Defendant(s).

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Case Number: 1:09cv569

Chief Judge Susan J. Dlott

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge J. Gregory Wehrman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on June 24, 2010 a Report and Recommendation (Doc. 38). Subsequently, the plaintiff filed objections to such Report and Recommendation (Doc. 45), Defendant International Brotherhood filed a response to the objections (Docs. 46 ), Defendant Duro Bag Manufacturing filed a response to the Report and Recommendation (Doc. 47) and Defendant Central States filed a response to plaintiff's objections (Doc. 48).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendation should be adopted.

Accordingly, based on the Court's exhaustive review of the administrative record, the Trustees were not arbitrary and capricious when they denied plaintiff's claim for additional

contributory credit under the Plan. Plaintiff, therefore, is not entitled to relief from this Court on any of his claims.

Therefore, defendant Central States' motion for judgment on the pleadings (Doc. 16) is **GRANTED**.

Plaintiff's motion to set aside the administrative decision (Doc. 24) is **DENIED**.

Defendant Duro Bag's motion to dismiss (Doc. 25) is **DENIED as MOOT**.

Defendant International Brotherhood of Teamsters' motion for summary judgment (Doc. 32) is **GRANTED IN PART** to the extent that plaintiff's breach of contract claims are preempted by the LMRA and barred by the statute of limitations, but otherwise **DENIED AS MOOT**.

This case is terminated off the docket.

IT IS SO ORDERED.

s/Susan J. Dlott  
Chief Judge Susan J. Dlott  
United States District Court